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BOARD OF  
REAL ESTATE APPRAISERS

Acting Executive Director

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE REAL ESTATE APPRAISER BOARD

In the Matter of:

BOOKER T. WESLEY  
Certification No. 42RG00104800

FINAL ORDER  
OF DISCIPLINE

COPY

CERTIFIED TRUE COPY

This matter was opened before the New Jersey State Real Estate Appraiser Board (the "Board") on December 14, 2010, upon the filing of a Provisional Order of Discipline ("POD"), a copy of which is attached hereto as Exhibit "A". Within the POD, the Board provisionally found, among other items, that a Demand for Statement in Writing Under Oath (a "DSWUO") was served upon respondent Booker T. Wesley on November 3, 2010, that Mr. Wesley had been required to provide a response to the DSWUO within twenty days, and that, as of December 14, 2010, no response had been received. Mr. Wesley's failure to have responded to the DSWUO was provisionally found to constitute a violation of the Uniform "Duty to Cooperate Regulation," N.J.A.C. 13:45C-1.2, N.J.A.C. 13:45C-1.3.

Within the POD, we ordered that Mr. Wesley's certification to practice real estate appraising was to be suspended, and provided that the Board would not entertain any application for reinstatement until such time as respondent provided a complete response to the DSWUO. The POD also included a provision that Mr. Wesley was to be assessed a fine and penalty in the amount of \$1,000.

The Order and the proposed penalties were subject to

finalization by the Board on the 30<sup>th</sup> day following entry - January 13, 2011 - unless, prior thereto, respondent were to request modification or dismissal of the proposed findings of fact or conclusions of law by submitting a written request therefor to the Board. The POD further provided that, in the event a request for modification or dismissal were received, no Order would be finalized until the Board first reviewed the submissions and determined whether, based thereon, any further proceedings (to include without limitation evidentiary hearings) were necessary.

On December 18, 2010 (four days after the filing of the POD), respondent submitted written responses to the questions that were set forth within the DSWUO. Respondent then submitted a written "Motion for Dismissal," dated December 31, 2010, wherein he argued that the POD should be dismissed.

On January 10, 2011, Deputy Attorney General Joanne Leone submitted a letter to the Board advising that the Attorney General was taking the position that, because respondent had fully responded to the POD after the filing of the POD, the proposed suspension of his license was no longer necessary. D.A.G. Leone urged, however, that the proposed civil penalty of \$1000 be finalized, so as to penalize respondent for his untimely response and his violation of the Uniform Motor Vehicle Cooperate Regulation."

Finally, we received a written response to D.A.G. Leone's letter dated January 24, 2010 (sic) from Mr. Wesley. Therein, he advised that he received the DSWUO by regular mail on November 6, 2010,

and that he submitted his response (dated December 17, 2010) to the Board by e-mail on December 18, 2010 and by Priority Mail on December 21, 2010. Respondent then made a series of arguments why he should not be subject to penalization by the Board, to include a claim that his response should have been considered to be timely and a claim that he was not provided with sufficient warning of the consequences that might occur in the event he failed to submit a timely response.

Upon reviewing the submissions made by the parties, we do not find any need to schedule or conduct further evidential hearings based on respondent's submissions. The material facts, set forth below, are clear and beyond dispute. Fundamentally, respondent did not timely respond to a DSWUO which was served upon him, and his response was only submitted after a POD seeking to impose sanctions against him for his failure to have responded was filed. We therefore make the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. Booker T. Wesley ("respondent") is a certified general appraiser in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about July 8, 2010, the Board received a consumer complaint regarding an appraisal dated June 14, 2010, prepared by respondent, upon property located at 107 Randolph Avenue, Jersey City, New Jersey (the "subject appraisal"). The Board forwarded a copy of the complaint received to Mr. Wesley by letter dated July 26, 2010, and

asked that Mr. Wesley provide a written response to the complaint addressing the issues raised in the complaint and providing the Board with complete information regarding the appraisal. Mr. Wesley responded by letter dated August 11, 2010, and therein advised the Board that the individual who filed the complaint was not his client. He attached a copy of his workfile to his response.

3 On or about November 3, 2010, a DSWUO was sent to respondent on behalf of the Board. Therein, D.A.G. Leone demanded that Mr. Wesley respond, in a certified statement, to thirteen specific questions which respondent had concerning the subject appraisal. The letter transmitting the DSWUO was sent to Mr. Wesley at his address of record in Newark, New Jersey via certified and regular mail. Mr. Wesley was specifically advised that he was required to reply within twenty days (on or before November 23, 2010). The certified mailing was returned as "unclaimed;" the regular mailing was not returned.

4 Respondent failed to make a timely response to the DSWUO.

5 On December 14, 2010, a POD was filed. That POD was based primarily on respondent's failure to have complied with the investigative demand with which he had been served.

6 Following the filing of the POD, respondent submitted a complete, certified response to the questions set forth in the DSWUO dated December 17, 2010.

#### CONCLUSIONS OF LAW

By failing to provide a timely response to the DSWUO,

respondent violated the Duty to Cooperate Regulation, N.J.A.C. 13:45C-2.7 and N.J.A.C. 13:45C-1.3(a)(4). Mr. Wesley thereby engaged in professional misconduct, within the meaning of N.J.S.A. 45:1-21(e), and is subject to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

#### DISCUSSION OF ADDITIONAL SUBMISSIONS

As noted above, we have reviewed the two written submissions made by respondent, and have concluded that there is nothing raised therein which triggers any need for the scheduling of further evidential hearings herein. Mr. Wesley's claim, in his January 24, 2011 letter, that his response was submitted in a timely fashion (specifically, his assertion that the response was submitted eighteen days from the date he received the DSWUO) is factually inaccurate - indeed, respondent specifically states in his letter that he received the DSWUO on November 3, 2010 and responded by electronic mail on December 18, 2010, a full 45 days thereafter. In a similar ilk, respondent's claim that he was specifically warned that he would be subject to penalty if his response was not timely received, and his related assertion that he had requested an extension of time to respond had he been warned, are unfounded. The claims are belied by the fact that the correspondence dated to Mr. Wesley dated November 3, 2010 specifically advised, in the third paragraph, that a failure to respond could be deemed to constitute a violation of the Duty to Cooperate regulation, and that any "violation will subject you to penalties and/or sanctions by the board." Finally, we reject the remainder of arguments made by respondent within his two

written submissions as being clearly without merit, as they simply fail to focus on or address his failure to have responded to the DSWUO.

Notwithstanding the above, we do agree with the suggestion made by D.A.G. Leone that any need that may have previously existed to order the suspension of respondent's license has been addressed by respondent's cooperation, albeit belated, in the Board's inquiry.

ACCORDINGLY, IT IS on this 16th day of February, 2011,

ORDERED:

Respondent Booker T. Wesley is hereby assessed and ordered to pay a civil penalty in the amount of \$1,000, based on his violation of N.J.S.A. 45:1-21(h) and pursuant to N.J.S.A. 45:1-25. Respondent shall remit payment of the fine and penalty in full by certified check or money order payable to the State of New Jersey, delivered to the Director Charles Kirk, State Real Estate Appraiser Board, P.O. Box 48022, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the entry of this Order. In the event respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as are authorized by law.

NEW JERSEY STATE REAL ESTATE  
APPRAISER BOARD

By:

Frank A. Willis  
Frank A. Willis  
Board President